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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
CENTRAL PAINTING COMPANY,)
)
Appellant,)
)
v.)
)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
)
Respondent.)

PCHB No. 660

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

THIS MATTER being the appeal of a \$100 civil penalty for an alleged particulate emission violation; having come on regularly for hearing before the Pollution Control Hearings Board on the 8th day of October, 1974, at Seattle, Washington; and appellant Central Painting Company appearing through its president and owner, John G. Hamilton, and respondent Puget Sound Air Pollution Control Agency appearing through its attorney Keith D. McGoffin; and Board members present at the hearing being Walt Woodward and Chris Smith; and the Board having considered the sworn testimony, exhibits, records and files herein and having entered on the 10th day of

1 October, 1974, its proposed Findings of Fact, Conclusions of Law and
2 Order; and the Board having served said proposed Findings, Conclusions
3 and Order upon all parties herein by certified mail, return receipt
4 requested and twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,
6 Conclusions and Order; and the Board being fully advised in the premises;
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
9 Findings of Fact, Conclusions of Law and Order, dated the 10th day of
10 October, 1974, and incorporated by this reference herein and attached
11 hereto as Exhibit A, are adopted and hereby entered as the Board's Final
12 Findings of Fact, Conclusions of Law and Order herein.

3 DONE at Lacey, Washington this 29th day of November, 1974.

14 POLLUTION CONTROL HEARINGS BOARD

15 Walt Woodward
16 WALT WOODWARD, Chairman

17 Chris Smith
18 CHRIS SMITH, Member

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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
CENTRAL PAINTING COMPANY,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 660

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$100 civil penalty for an alleged particulate emission violation, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer, and Chris Smith) in a formal hearing in the Seattle facility of the State Board of Industrial Insurance Appeals on October 8, 1974.

Appellant appeared through its president and owner, John G. Hamilton, respondent through Keith D. McGoffin. Dave Ummel, Olympia court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were admitted.

EXHIBIT A

1 From testimony heard and exhibits examined, the Pollution Control
2 Hearings Board makes these

3 FINDINGS OF FACT

4 I.

5 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd
6 Ex. Sess., has filed with this Board a certified copy of its Regulation I
7 containing respondent's regulations and amendments thereto.

8 II.

9 On July 12, 1974, in the vicinity of Pacific Avenue and Smith Street,
10 Everett, Snohomish County, appellant's workmen sandblasted metal hangers
11 in a space between two buildings. They used an abrasive substance
12 approved by respondent. No tarps were employed and particulate matter in
13 the form of dust became airborne and drifted out into Smith Street.

14 III.

15 About August, 1971, respondent published and mailed to the Painting
16 and Decorating Contractors of America, of which appellant is a member,
17 copies of "Guidelines for Sandblasting and Abrasive Blasting Control"
18 which includes this sentence: "Dry abrasive blasting using Agency approved
19 abrasives may be performed in the open provided adequate tarping is used to
20 prevent airborne nuisance." (emphasis supplied).

21 IV.

22 Section 9.15(a) of respondent's Regulation I requires "reasonable
23 precautions" be taken to prevent particulate matter from becoming airborne.

24 V.

25 Appellant believed it had taken a reasonable precaution to prevent
26 particulate from becoming airborne when it conducted its sandblasting in

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 the confined space between the two buildings. Appellant had not wished to
2 blockade the area with tarps because of clearance needed to operate a
3 fork-lift vehicle necessary to the sandblasting.

4 VI.

5 In connection with the incident described in Finding of Fact II,
6 respondent served on appellant Notice of Violation No. 9397, citing
7 Section 9.15 of Regulation I, and, subsequently, Notice of Civil Penalty
8 No. 1664 in the sum of \$100.00, which is the subject of this appeal.

9 VII.

10 Any Conclusion of Law cited hereinafter which is deemed to be a
11 Finding of Fact is adopted herewith as same.

12 From these Findings, the Pollution Control Hearings Board comes to
13 these

14 CONCLUSIONS OF LAW

15 I.

16 Appellant was in violation of Section 9.15 of respondent's
17 Regulation I as cited in Notice of Violation No. 9397.

18 II.

19 The amount levied in Notice of Civil Penalty No. 1664 is reasonable.

20 III.

21 Any Finding of Fact herein which is deemed to be a Conclusion of
22 Law is adopted herewith as same.

23 Therefore, the Pollution Control Hearings Board issues this

24 ORDER

25 The appeal is denied and Notice of Civil Penalty No. 1664 in the
26 amount of \$100.00 is sustained.

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 DONE at Lacey, Washington this 16 day of October, 1974.

2 POLLUTION CONTROL HEARINGS BOARD

3 Walt Woodward
4 WALT WOODWARD, Chairman

5 Chris Smith
6 CHRIS SMITH, Member

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27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER